



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Labor & Industries

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 11-15-068; or | <input checked="" type="checkbox"/> Original Notice       |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or          | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).                                 | <input type="checkbox"/> Continuance of WSR _____         |

Title of rule and other identifying information: (Describe Subject) Creating Chapter 296-14A WAC Claim Resolution Structured Settlement Agreements – See attachment #1

Hearing location(s): See attachment #2

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**Submit written comments to:**

Name: Nancy James, Department of Labor & Industries  
Address: P.O. Box 44208  
Olympia, WA 98504-4208  
e-mail [nancy.james@lni.wa.gov](mailto:nancy.james@lni.wa.gov)  
fax (360) 902-4960 by 5:00 PM on February 24, 2012

**Assistance for persons with disabilities:** Contact

Nancy James by February 7, 2012

TTY (360) 902-5787 or (360) 902-4379

Date of intended adoption: March 20, 2012

(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Rulemaking is needed as part of the implementation of claim resolution structured settlement agreements, allowed by Engrossed House Bill 2123 (Chapter 37, Laws of 2011). These agreements will be available for claims for injured workers age fifty-five and older effective January 1, 2012, fifty-three and older effective January 1, 2015, and fifty and older effective January 1, 2016. Section 301 of the legislation states that the legislature recognizes certain workers would benefit from an option allowing them to initiate claim resolution structured settlements to pursue work or retirement goals independent of the workers' compensation system. This rulemaking creates new rules to clarify requirements and the process for these agreements. This change is expected to significantly impact costs of workers' compensation claims.

**Reasons supporting proposal:** The proposed rules will assist in the implementation EHB 2123. This proposed rulemaking will include new rules to clarify the process and requirements for making application for and negotiating structured settlements, and define periodic payment schedules.

**Statutory authority for adoption:** RCW 51.04.020, RCW 51.04.030, RCW 51.04.065, RCW 51.04.069, and Chapter 37, Laws of 2011 (EHB 2123)

**Statute being implemented:** RCW 51.04.062, RCW 51.04.063, RCW 51.04.065, and Chapter 37, Laws of 2011 (EHB 2123)

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: January 17, 2012**

**TIME: 8:28 AM**

**WSR 12-03-089**

**DATE**  
January 17, 2012

**NAME** (type or print)  
Judy Schurke

**SIGNATURE**

**TITLE**  
Director

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization) Department of Labor and Industries

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... AnnaLisa Gellermann	Tumwater, Washington	(360) 902-6593
Implementation.... AnnaLisa Gellermann	Tumwater, Washington	(360) 902-6593
Enforcement..... Beth Dupre	Tumwater, Washington	(360) 902-4209

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No. Explain why no statement was prepared.

The department determined the proposed rules do not require a small business economic impact statement because these proposed rules will not impose any new or incremental costs. The proposed rules provide general guidance and specific processes to implement claim resolution structured settlement agreements allowed by Engrossed House Bill 2123 (Chapter 37, Laws of 2011) without creating or imposing more stringent standards or requirements for the affected employers. See RCW 19.85.025(4) and RCW 34.05.310(4)(c)and(e).

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Nancy James

Address: P.O. Box 44208

Olympia, WA 98504-4208

phone (360) 902-4379

fax (360) 902-4960

e-mail [nancy.james@lni.wa.gov](mailto:nancy.james@lni.wa.gov)

No: Please explain:

Attachment #1  
CR-102  
Claim Resolution Structured Settlement Agreements

NEW SECTIONS:

WAC 296-14A-010 Negotiating settlements-- How is a structured settlement agreement negotiated in a state fund claim?

WAC 296-14A-020 Employers.

WAC 296-14A-030 Continuation of benefits--Do Title 51 RCW benefits stop during settlement negotiations?

WAC 296-14A-040 Settlement issues--Can issues outside of Title 51 RCW be settled as part of a structured settlement agreement?

WAC 296-14A-050 Future claims--Can future claims be settled as part of a structured settlement?

WAC 296-14A-060 Burden to Title 51 RCW funds--How does a self-insured employer obtain prior approval for a structured settlement agreement if the agreement will burden or impact any funds covered under Title 51 RCW?

WAC 296-14A-070 Protests--What if there is an outstanding protest on a claim that has a final settlement agreement?

WAC 296-14A-080 Payments--What is a periodic payment schedule?

WAC 296-14A-090 Prior Agreements.

Attachment #2  
CR-102  
Claim Resolution Structured Settlement Agreements

Hearing Locations:

February 21, 2012, 10:00 AM  
Red Lion at the Quay  
100 Columbia St.  
Vancouver, WA 98660

February 21, 2012, 1:00 PM  
Tukwila L&I Office, Room C30  
12806 Gateway Dr.  
Tukwila, WA 98168-3311

February 22, 2012, 10:00 AM  
Center Place Event Center  
2426 N. Discovery Place  
Spokane Valley, WA 99216

February 22, 2012, 10:00 AM  
L&I Headquarters, Room S119  
7273 Linderson Way SW  
Tumwater, WA 98501